

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL DOCKET NO.: 5:10CV173-RLV**

**MATTHEW J. LACEY and  
MELISSA A. LACEY,  
a/k/a MELISSA A. HEINZE,  
a/k/a MELISSA A. SMITH,  
Plaintiffs,**

**v.**

**EMC MORTGAGE CORPORATION,  
a Delaware Corporation, BANK OF AMERICA,  
NATIONAL ASSOCIATION, as successor by  
merger to LaSalle Bank National Association,  
as (Trustee) for certificate holders of Bear  
Stearns Asset Backed Securities, Inc., Asset  
Backed Certificates, Series 2004-1 (Holder)  
DAVID A. SIMPSON, (Substitute Trustee);  
and DOES 1 through 100, inclusive;  
Defendants.**

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**ORDER**

**THIS MATTER** is before the Court on its own motion to inquire as to the status of arbitration. This case has been stayed since May 2011 for purposes of submitting the dispute to binding arbitration pursuant to the provisions of the Arbitration Provision, as modified by the parties (i.e., arbitrating by AAA rules but not before the AAA). (Docs. 27, 28). According to previous filings, in October 2012, the parties voluntarily participated in a second mediation and reached a tentative settlement agreement that was subsequently rejected by Plaintiffs in favor of proceeding with arbitration. (Doc. 31).

The most recent Status Report, filed September 6, 2013 by Defendants' counsel, apprised this Court that Plaintiffs' counsel had since withdrawn from the case. (Doc. 34 / Report, ¶ 2). Defendants further advised that outstanding motions, including Defendants' Motion to Enforce Settlement, filed June 6, 2013, and Defendants' Motion for Summary Judgment, filed July 2, 2012, remain before the Honorable William H. Freeman for decision. (Id., ¶ 3).

**IT IS, THEREFORE, ORDERED** that both Plaintiff and Defendant groups are hereby directed to file a Status Report **on or before Friday, December 13, 2013.** The parties may file a Joint Status Report . However, since Plaintiffs did not join in the report submitted by Defendants' counsel in September 2013, and are apparently no longer represented by counsel, the Court specifically requests that Plaintiffs address the pendency of this nearly three-year-old civil action.

**IT IS FURTHER ORDERED** that the Deputy Clerk shall forward a copy of the instant Order to the Arbitrator (and former Mediator), the Honorable William H. Freeman.

Signed: December 5, 2013

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees  
United States District Judge

